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RURAL TELECOMMUNICATIONS GROUP

the voice of rural wireless telecommunications providers

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Honorable Michael K. Powell
Chairman
Federal Communications Commission
The Portals, Room 8-B201
445 Twelfth Street, SW
Washington, D.C. 20554

Re: *Ex Parte* in WTB Docket No. 00-32

Dear Mr. Chairman:

The Rural Telecommunications Group ("RTG")¹ continues to believe that auction practices have the potential to hinder and delay the deployment of wireless services in the nation's less populated areas. RTG urges you to carefully consider the appropriate size of license areas when fashioning service rules so that licensees have the ability and incentive to serve all populations within their service areas.

In this regard, RTG supports the comments filed by the Office of Advocacy of the United States Small Business Administration ("SBA") and reply comments filed by the National Telephone Cooperative Association ("NTCA") in response to the Federal Communications Commission's recent *Second Notice of Proposed Rulemaking* in WTB Docket 00-32.² RTG's members are particularly interested in the outcome of this proceeding because the spectrum at issue may be extremely useful in rural areas and could possibly allow rural providers to fill gaps in their service areas. The allocation of

¹ RTG is a group of rural telecommunications providers who have joined together to speed the delivery of new, efficient, and innovative telecommunications technologies to the populations of remote and underserved sections of the country. RTG's members provide wireless telecommunications services, such as cellular telephone service, Personal Communications Services ("PCS"), and Multichannel Multipoint Distribution Service ("MMDS") to their subscribers. Many of RTG's members also hold Local Multipoint Distribution Service ("LMDS") licenses and have started to use LMDS to introduce advanced telecommunications services and competition in the local exchange and video distribution markets in rural areas. RTG's members are all affiliated with rural telephone companies.

² *In the Matter of Amendment of the Commission's Rules with Regard to the 3650-3700 MHz Government Transfer Band, The 4/9 GHz Band Transferred from Federal Government Use*, First Report and Order and Second Notice of Proposed Rule Making, ET Docket No. 98-237, WT Docket No. 00-32, FCC 00-363 (rel. Oct. 24, 2000).

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this spectrum will facilitate a broad range of services, including traditional voice telephony and high-speed data and video services.

The Commission is proposing licensing and service rules for the assignment of fixed and mobile services licenses in the 3650-3700 MHz band and proposes to auction this 50 MHz of spectrum on a geographic basis. RTG supports SBA's and NTCA's call for the FCC to adopt rules and policies supporting small geographical areas, such as Metropolitan Statistical Areas ("MSAs") and Rural Service Areas ("RSAs"), which would facilitate opportunities for small and rural carriers to obtain spectrum for their customers. The Commission should avoid auctioning these bands in larger geographical areas, such as Economic Areas ("EAs"), which are simply too large for most small businesses to bid for or serve.

I. The FCC Should License Spectrum in the 3650-3700 MHz Band by Using RSAs and MSAs.

Like SBA and NTCA, RTG recommends that the Commission auction licenses in the 3650-3700 MHz band based on MSAs or RSAs (or similarly-sized areas) to encourage rural and small business participation in the auction and assure that a broad range of new advanced services will be offered in rural areas; for 50 MHz of spectrum will provide enough bandwidth to allow high-speed digital data and video services. RTG of course supports the Commission's plan to pair the 25 MHz spectrum blocks in the 3650-3700 band with the 25 MHz blocks in the 4.9 GHz band to create licenses of 50 MHz.

With RSA or MSA license areas, a small business interested in serving only in a single rural or urban area could bid on the specific area where it wanted to provide service. By auctioning smaller geographical areas, the Commission could facilitate participation by companies that wish to serve a rural area but not a neighboring city. Companies could of course purchase multiple licenses through some form of formal or informal combinatorial bidding to create regional systems.

In contrast, if the FCC auctions the licenses by EAs (or regional Economic Areas), which includes rural and urban areas, a higher premium would be placed on the value of licenses due to the urban areas. The accompanying rural area would be unnecessarily tied to the values placed on the urban area. Smaller businesses would face the prospect of bidding on much larger areas than they are able to serve.

RTG also supports the SBA's position that the Commission should initially allow for smaller geographical area licensing and not depend solely on secondary markets to assist smaller businesses in obtaining a slice of spectrum. If the FCC relies on post-auction partitioning or leasing of the spectrum to assist smaller businesses, the FCC would miss out on an opportunity to encourage effective small business participation in the auction itself. If smaller businesses have to rely on partitioning, they may have to pay

considerably more to partition a rural area than if the spectrum had been auctioned as a separate license area.

II. Licensing Spectrum in the 3650-3700 MHz Band in Small Service Territories Will Speed the Deployment of Services to Rural Areas.

Like NTCA members, RTG members have a strong incentive to provide technologically-advanced services to their customers. RTG's members have the incentive to obtain spectrum and build systems in rural, less populated areas where they already offer telecommunication services. In contrast, larger carriers primarily look to urban areas for their profits and have less economic incentive to provide advanced services in rural areas.

Open auctions alone will not promote the wide implementation of wireless services. Nor should the Commission look to larger and larger service areas as a means of simplifying the auction process and generating higher revenues. Congress rejected this approach when it directed the Commission to include safeguards to protect the public, including those living in rural areas, from the impact of unfettered spectrum auctions. Instead, § 309(j) of the Communications Act directs the Commission to promote "the development and rapid deployment of new technologies, products, and services for the benefit of the public, *including those residing in rural areas.*"³ The Commission must ensure that all entities have a fair chance to obtain spectrum in the geographic areas in which they serve.

Rural carriers and small businesses will have a better opportunity to obtain licenses in the 3650-3700 MHz band for the areas in which they serve if license areas reflect, as closely as possible, the size of these areas. Our concern is that large geographical license areas and liberal performance obligations result in no service to the less populated sections of the country. The Commission should reject license areas that are too large for smaller and rural businesses to serve or afford.

Sincerely,



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³ 47 U.S.C. § 309(j)(3)(A) (emphasis added).